IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 1701 of 2007.

Date of decision: 6.12.2007.

Himachal Shiksha Samiti & Anr. … Petitioners

Versus

H.P. Board of School Education & Anr. … Respondents

Coram :

The Hon'ble Mr. Justice Deepak Gupta, Acting Chief Justice.

The Hon'ble Mr. Justice V.K. Ahuja, Judge.

Whether approved for reporting?[1] No.

For the Petitioners: Mr. Neel Kamal Sood, Advocate.

For the respondents: Mr. Lovneesh Kanwar, Advocate.

Per Deepak Gupta, A.C.J.:

By means of this writ petition the petitioners have prayed for the following amongst other reliefs:

> "(I) Directing the Respondents entertain the Application Form of the present Petitioners and to grant affiliation from 9th to 10+2 Classes to the Petitioners for the academic session 2007-2008 and also to accept admission forms of the students of 10th Class by due date i.e. 15th October, 2007 or with late fee upto 31st October, 2007 and Annexure P-6 issued by the Respondent Board dated 29.3.2007 may kindly be quashed in view of No Objection Certificate granted in August, 2007.

The case of the petitioners is that it has been running the school from the year 1996. The school was being run from classes 1st to 8th and was granted affiliation by the Himachal Pradesh Board of School Education. It is alleged that the petitioners sought affiliation for classes

[1]Whether reporters of Local Papers may be allowed to see the judgment? Yes.

9th and 10th in May, 2006. The Board raised certain objections and the request of the school for upgradation was rejected. Thereafter, another application appears to have been filed which was also rejected on 29.3.2007. Despite no affiliation having been granted for classes 9th and 10th the school admitted students to these classes. We are unable to understand how the petitioners could have granted the admission to students without first taking affiliation from the Board. This Court in **CWP No. 92 of 2006** titled **Divya Jyoti Educational Society & Anr.** Vs. **Himachal Pradesh Board of School Education**, has clearly laid down that the affiliation for the subsequent academic year must be applied on or before 31st December of the previous year. This is to protect the interest of the students. This case again highlights the necessity and dire need to ensure that affiliation is obtained before the students are admitted to the school. This is another classic example where the authorities running the school had taken the law into their own hand and granted admissions to students in classes 9th and 10th without any affiliation. We cannot encourage this practice and on this short ground we are of the view that the petition deserves to be rejected.

However, we are of the considered view that the minor children studying in Class 10th cannot be made to suffer for the misdemeanour and misconduct of the authorities like the petitioners. We therefore direct the Board that in case the admission forms of the students of Class 10th of the petitioner's school are sent through some other school or as private students, they shall be favourably considered for grant of Roll Numbers to the examination to be held in March, 2008. We further direct the petitioners not to admit or conduct any classes of 9th and 10th till affiliation in accordance with law is obtained. In case

the petitioners admits students without obtaining prior affiliation, its affiliation for classes 1st to 8th will also be liable to be cancelled. Petition disposed of in the aforesaid terms.

CMP No. 2698 of 2007:

In view of the orders passed in the main petition, this application shall stand disposed of being infructuous.

Copy **dasti**.

(Deepak Gupta),
Acting Chief Justice.

(V.K. Ahuja),
Judge

December 6, 2007
(BSS)